

POLICY NUMBER 5000-17
Date Adopted 07-06-04
Date Effective 07-06-04

RESOLUTION NO. 04-21

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS,
ADOPTING A CITY COUNCIL POLICY ON ANNEXATION OF DEVELOPED
MUNICIPAL UTILITY DISTRICTS LOCATED IN THE CITY'S
EXTRATERRITORIAL JURISDICTION.**

**BE IT RESOLVED BY THE CITY COUNCIL
OF THE CITY OF SUGAR LAND, TEXAS:**

Section I. That the City Council adopts the following policy:

City Council Policy

City Annexation of Developed Areas

I. PURPOSE

This Resolution establishes the City of Sugar Land's policy for the City's annexation of developed municipal utility districts located in the City's ETJ.

II. DEFINITIONS. In this Policy:

District means a special district created pursuant to Article XIV, Section 59, Texas Constitution and operating under the provisions of the Texas Water Code.

Developed District means a District located in the City's ETJ (1) that is developed to densities and standards comparable to those within the City's corporate limits; and (2) where all of the water, wastewater, and drainage facilities necessary to serve the entire District are substantially completed and the District has reimbursed the District developers for its costs of installing those facilities. Developed District also means all of the Districts within a master planned community.

ETJ means the City's extraterritorial jurisdiction as established by State law.

Full Cost of Service means the direct cost of service, plus a prorated share of indirect and overhead costs, depreciation on fleet, equipment, facilities or other additional costs necessary for providing the service.

Full Purpose Annexation means the annexation of an area for all municipal purposes, including the imposition of City ad valorem taxes.

Limited Purpose Annexation means the annexation of an area for specific limited purposes, as authorized by the City's Charter.

Strategic Partnership Agreement (SPA) means an agreement between the City and a District as authorized by section 43.0751 of the Texas Local Government Code, as amended.

III. Findings.

1. State law provides an area extending outside the City's corporate limits, known as the City's ETJ, in which the City exercises planning authority over the layout and construction of public streets, water, wastewater, and drainage facilities to serve ETJ development, including District facilities.

2. The State law established the City's ETJ on the expectation that the City will at some time in the future annex developed land within the ETJ.

3. The City recognizes that the City and the Developed Districts have many common regional and community interests and concerns, including mobility transportation issues, providing efficient regional water and wastewater services, including the conversion to a surface water supply and participation in the City's Groundwater Reduction Plan, providing effective police services and fire and emergency services, and providing adequate park and recreational opportunities for area residents.

4. The City has historically and incrementally provided some service to the Developed Districts under contracts under which the City has not always recovered its full costs and the Developed Districts have not always received the same level of services as City residents.

5. The City is in the best position of all local governmental entities to provide the Developed Districts with the full range of governmental services after annexation.

6. The City's annexation of Developed Districts will allow:

(a) The City to plan for and provide full City services to the Developed Districts in an efficient and cost effective manner;

(b) Allow the Developed Districts to receive full City services at a service level that cannot be provided by any other governmental entity;

(c) Allow the Developed District's residents to be fully represented in and participate in City government.

7. The City annexation of the Developed Districts should ensure that current City residents will not be unfairly burdened with the costs of annexation, including Developed District debt.

POLICY

A. City Services to Developed Districts in the City's ETJ.

1. The City will continue to provide City services to Developed Districts as required under existing contracts between the City and the Developed Districts.

2. The City does not intend to enter into new contracts or renew or extend the term of any existing contract with a Developed District to provide or continue to provide City services to a Developed District except as provided under an SPA entered into between the City and District.

3. Where an SPA provides for annexation of the District at a time preferred by the City, the City will charge the District for City services provided to the District prior to full purpose annexation of the District the City's full cost of service delivery.

After annexation, but prior to dissolution of the District, the City will ensure that net ad valorem taxes and utility rates paid do not include debt associated with prior City annexations and the existing utility system.

4. Where an SPA provides for annexation of the District only after retirement of District debt, the City will charge the District for any City services provided to the District prior to full purpose annexation the City's full cost of service delivery plus a percentage established by Council.

5. If the City and a Developed District cannot agree on an SPA, the City will continue to provide the service on a temporary basis at the level provided under the previous contract under the following conditions:

- (a) The City will charge the District for City services provided to the District the City's full cost of service delivery plus a percentage established by Council.
- (b) The City service will only be provided until another entity is identified that could provide the service to the Developed District; and
- (c) The City may release its ETJ rights to the land within the Developed District to another governmental entity.

B. Annexation of Developed Districts.

1. The City will only annex a Developed District under the agreed terms of a Strategic Partnership Agreement entered into between the Developed District and the City.

2. The negotiated SPA will address issues such as, but not limited to:

- (a) The circumstances under which or period of time within which the City will annex all or part of the area within the Developed District for full purposes.

- (b) The circumstances under which or period of time within which the Developed District will remain in existence and continue to operate and provide services to the Developed District after the City annexes the Developed District for full purposes.
- (c) A uniform rebate of City ad valorem taxes to all the Developed Districts annexed under a SPA for full purposes so long as the District remains in existence.
- (d) The terms under which the City will continue to provide services to the Developed District until the Developed District is annexed for full purposes.
- (e) As appropriate, the City and Developed District may provide for a Limited Purposes Annexation of the District.
- (f) Terms and limits for the issuance of any new debt by the Developed District.
- (g) Any other terms agreed to between the City and Developed District.


C. Waiver of Conditions

The Council reserves the right to waive specific criteria or conditions if in the best interest of the City.

APPROVED on July 06, 2004.

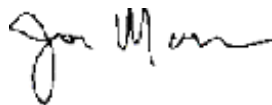
/s/
David G. Wallace, Mayor

ATTEST:



Glenda Gundermann, City Secretary

Reviewed for Legal Compliance:



AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF SUGAR LAND, TEXAS

AGENDA OF 07/06/04 DEPARTMENT OF ORIGIN: Dev. Services REQ. NO. VII E

DATE SUBMITTED: 06/25/04

PREPARED BY: J. M. Callaway, Development Services Director

**SUBJECT: CONSIDERATION AND ACTION ON CITY OF SUGAR LAND
RESOLUTION NO. 04-21 ADOPTING A POLICY FOR THE ANNEXATION
OF DEVELOPED AREAS AND PROVISION OF SERVICES TO MUNICIPAL
UTILITY DISTRICTS IN THE SUGAR LAND EXTRATERRITORIAL
JURISDICTION**

PROCEEDING: Consideration and Action.

CLEARANCES: JIM CALLAWAY, DEVELOPMENT SERVICES DIRECTOR



PAUL A. HOFMANN, ASSISTANT CITY MANAGER



**EXHIBITS: Draft Policy
Annexation Committee FYI Memo
Letter to MUD Legal Counsel (advance copy sent July 2, 2004 via email/fax)**

APPROVED FOR SUBMITTAL: CITY MANAGER



EXPENDITURE REQUIRED: \$ N/A

AMOUNT BUDGETED: \$ N/A

APPROPRIATION REQUIRED: \$ N/A

EXECUTIVE SUMMARY:

On April 6, 2004, Council reviewed a final draft policy relating to annexation and provision of ETJ services to Municipal Utility Districts (MUDs). Council found that draft to be consistent with previous Council direction, and established a review and comment period for input by ETJ MUDs. That review and comment period ended on June 7, 2004.

We have received replies from most of the ETJ districts. Few actual policy comments were received; responses focused on questions regarding timing for annexation under the scenarios, cost of services after annexation, and other issues that would be answered by negotiation Strategic Partnership Agreements under the terms of the policy. A summary of the responses received to date follows:

- MUDs 67, 68, 69, 111, 112, with LID 7 and NTRCA (New Territory)- By joint letter these entities communicated that they can work within the policy options or a hybrid of the policy options. They also expressed their desire to have additional information regarding the financial impact of each option.**
- Plantation MUD- This District stated that it is not ready to provide a response at this time.**
- MUDs 106, 108, 109, 117 (Greatwood)- These Districts state they cannot express an opinion at this time and request additional information. The requested information includes current and projected service costs, identification of services the City would provide under the scenarios, cost for participation in groundwater reduction plans, projected tax rates, etc.**
- MUD113 (Avalon)- This District stated its belief that due to its nature and location it should be annexed, dissolved with its debt absorbed by the City. The District further requested that if the City did not plan to annex and dissolve the District, that the City provide additional information regarding the cost of services.**

On Friday July 2nd an advance copy of a letter to the responding MUDs was sent as an email/facsimile. This letter advised of the policy status and July 6th consideration and action by Council. The email/facsimile was sent to the same MUD legal counsel as was the original policy review and comment letter. A copy of that letter is attached.

RECOMMENDED ACTION

We recommend approval of the policy as attached if the form of Resolution No. 04-21. The policy, once adopted, will provide the best basis or framework for addressing the issues and questions raised by the various Districts during the review and comment period.

MEMORANDUM

TO: ALLEN BOGARD, CITY MANAGER *AB*

VIA: PAUL A. HOFMANN, ASSISTANT CITY MANAGER *PH*

FROM: JIM CALLAWAY, DEVELOPMENT SERVICES DIRECTOR *Jim Callaway*

DATE: JUNE 23, 2004

SUBJECT: ANNEXATION COMMITTEE MEETING – DEVELOPED AREA
ANNEXATION/SERVICE POLICY

The Council Annexation Committee met on June 22, 2004. The purpose of the meeting was to review Municipal Utility District (MUD) comments on the draft Council policy for Developed ETJ Area Annexation and ETJ Services. The Committee also discussed adoption and implementation of the policy along with Tract 3 annexation issues. Committee members Wallace, Parmer, and Wong were present.

Municipal Utility Districts (MUDs) within the Sugar Land ETJ were given a sixty-day period for review and comment on the draft policy. That review period ended on June 7, 2004. A summary of the responses received to date follows:

- MUDs 67, 68, 69, 111, 112, with LID 7 and NTRCA (New Territory) - By joint letter these entities communicated that they can work within the policy options or a hybrid of the policy options. They also expressed their desire to have additional information regarding the financial impact of each option.
- Plantation MUD - This District stated that it is not ready to provide a response at this time.
- MUDs 106, 108, 109, 117 (Greatwood) - These Districts state they cannot express an opinion at this time and request additional information. The requested information includes current and projected service costs, identification of services the City would provide under the scenarios, cost for participation in groundwater reduction plans, projected tax rates, etc.
- MUD113 (Avalon) - This District stated its belief that due to its nature and location it should be annexed, dissolved with its debt absorbed by the City. The District further requested that if the City did not plan to annex and dissolve the District, that the City provide additional information regarding the cost of services.

In addition to the above summary of responses, staff advised the Committee that:

- Many of the service cost questions raised by Districts could only be answered through direct negotiations for services through a Strategic Partnership Agreement. This is particularly true for any “premium” cost for ETJ services Council may establish under the policy.
- Adoption of the policy provided a framework for addressing service questions.
- Surface water conversion – ground water reduction services represent the pending ETJ service issues that impact the City and all ETJ MUDs. Adoption of the policy provides a framework for determining which MUDs desire to participate in City ground water reduction plans.
- Fire service issues in New Territory make it likely that the New Territory Districts will be the first Districts to address expanded services and annexation through a Strategic Partnership Agreement. The policy will provide a basis for working through those issues.

It was the Committee and staff consensus that Council adoption of the policy provided the best guidance for working through the questions/issues raised by the various Districts. Tentative plans are to place the policy on the July 6, 2004 City Council agenda for consideration and action.

The Committee also considered staff comments regarding the annexation of Ft. Bend County Permanent School Fund Tract 3 (Tract 3). On March 27, 2003, staff recommended to Council annexation of Tract 3 as the most efficient method for ensuring that development of the property is consistent with the City’s codes and standards. Staff advised the Committee that the advantages to the City outweighed any “cons” associated with the annexation of Tract 3 prior to its sale and development. The Committee concurred. Staff plans to bring Council a report and resolution on the issue of annexing Tract 3 and adjacent properties. This item is tentatively planned for an August agenda.

July 6, 2004

«Title» «FirstName» «LastName»
«JobTitle»
«Company»
«Address1»
«Address2»
«City» «State» «PostalCode»

Advance copy via facsimile/email
Original Via US Mail

Dear «Title» «LastName»:

Last April we provided you with a copy of a draft City Council policy addressing the issues of annexation of developed Municipal Utility Districts and provision of City services to such Districts in the Sugar Land Extra-Territorial Jurisdiction (ETJ). We asked that you review the policy and offer your comments.

We appreciate the responses received. Few comments were made regarding the policy; most responses were questions about cost of services, timing of annexation, amount of any additional cost for services under scenario options, etc. Questions regarding current cost of services will be addressed under separate cover. Most questions regarding annexation timing, future costs and future services under the policy would best be answered through negotiations or discussions regarding specific City – District Strategic Partnership agreements. City Council adoption of the policy is the first step in addressing those questions.

The Sugar Land City Council will consider adoption of the proposed policy on the July 6, 2004 regular City Council agenda. Once the policy is adopted it will provide a framework for addressing the City and District questions and issues regarding annexation and ETJ services. We will work with each District to address these questions and concerns as we address new, expanded or extended service agreements through future Strategic Partnership Agreements.

Thank you again for your responses comments and questions.

Sincerely,

Jim Callaway, Development Services Director